

REMARKS

This Amendment and Reply is intended to be completely responsive to the Final Office Action dated October 19, 2007. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and the following remarks. Claims 1-41 have been rejected. Claims 1, 11, 24, 30, 31, 32 and 35 have been amended. No new matter has been added. Accordingly, Claims 1-41 will remain pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 112

On page 2 of the Office Action, the Examiner rejected Claims 24-29 under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. Specifically, the Examiner stated that “Claim 24 recites the limitation ‘first member’ in line 11” and noted that “there is insufficient basis for this limitation in the claim.”

Applicants thank the Examiner for noting the typographical error in Claim 24. Applicants have corrected this error by replacing the term “the first member” with the term “the peripheral edge” for which proper antecedent basis is provided. Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 24-29 under 35 U.S.C. § 112, ¶ 2.

Claim Rejections – 35 U.S.C. § 103

On pages 2-6 of the Office Action, the Examiner rejected Claims 1-12 and 18-41 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,366,104 to Armstrong (“Armstrong”) in view of U.S. Patent Publication No. 2002/0148846 to Luburic (“Luburic”) and U.S. Patent No. 4,848,575 to Nakamura et al. (“Nakamura et al.”). On page 6 of the Office

Action, the Examiner rejected Claims 13-17 under 35 U.S.C. § 103(a) as being unpatentable over Armstrong, Luburic and Nakamura et al. in further view of U.S. Patent No. 5,699,912 to Ishikawa et al. (“Ishikawa et al.”). These rejections should be withdrawn because the cited references fail to disclose, teach or suggest the claimed inventions.

For example, Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “separate collar coupled to the open first end of the container, the collar formed of a second material and having a first portion extending outwardly, a second portion extending downwardly, and a first connector extending upwardly and surrounding an aperture, the flexible film material being coupled to an outer periphery of the second portion” (emphasis added) as now recited in independent Claim 1 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. also fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “separate collar coupled to the open first end and having a first portion extending outwardly, a second portion extending downwardly, and a peripheral edge extending upwardly and surrounding an aperture, the flexible film material being coupled to an outer periphery of the second portion” (emphasis added) as now recited in independent Claim 24 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. also fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “separate collar coupled to the open first end and having a first portion extending outwardly, a second portion extending downwardly, and a groove surrounding an aperture, the flexible film material being coupled to an outer periphery of the second portion” (emphasis added) as now recited in independent Claim 30 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. also fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “separate collar coupled to the open first end of the container and having a first portion extending outwardly, a second portion extending downwardly, and an upstanding projection approximate an aperture, the flexible film material being coupled to an outer periphery of the second portion” (emphasis added) as now recited in independent Claim 31 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. further fails to disclose, teach or suggest a “hermetic storage system for containing wipes” comprising, in combination with other elements, a “separate collar coupled to a first end of the receptacle and having a first portion extending outwardly, a second portion extending downwardly, and one of a groove and a key, the flexible film material being coupled to an outer periphery of the second portion,” (emphasis added) as now recited in independent Claim 32 (as amended).

Armstrong alone or in any proper combination with Luburic, Nakamura et al. and/or Ishikawa et al. further fails to disclose, teach or suggest a “method for making a hermetic storage system for containing wipes” comprising, in combination with other steps, “providing a collar formed independent of the container as a separate member the collar having a first portion extending outwardly, a second portion extending downwardly, and a first connector extending upwardly and surrounding an aperture” and “coupling the flexible film material to an outer periphery of the second portion” (emphasis added) as now recited in independent Claim 35 (as amended).

In rejecting Claims 1, 24, 30, 31, 32 and 35, the Examiner stated:

Armstrong ‘104 discloses a hermetic storage system for containing wipes comprising: a flexible container (11) having a collar (flange 21 which extends outwardly away from outboard edge and has a generally upwardly facing surface 22 edge) having a first connector (rolled over section 19) surrounding an aperture; and an impermeable cover member (12) having a second connector (27);

wherein the first connector includes one of a groove and a key and the second connector includes the other one of the groove and the key; wherein the groove includes a first peripheral wall and a second peripheral wall, at least one of the first peripheral wall and the second peripheral wall being flexible and wherein the first peripheral wall includes an indentation and protrusion (see Figures 7-9 embodiments); and wherein the first connector and the second connector may be releasably engaged to provide a hermetic seal.

The Examiner acknowledged that Armstrong does not teach:

the key to have a width greater than the distance between the protrusion and the second peripheral wall of the groove and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the second peripheral wall.

The Examiner then cited to Luburic and stated:

Luburic discloses a hermetic storage system where the key has a width greater than the distance between the protrusion and the second peripheral wall of the groove and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion and the second peripheral wall for easier and tighter snapping action to provide a tighter hermetic seal.

The Examiner concluded:

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a key and groove arrangement with the key having a width greater than the distance between the protrusion and at least one of the first peripheral wall and the second peripheral wall configured to flex in response to the key passing between the protrusion to the container of Armstrong '104 as taught by Luburic to provide a better and tighter hermetic seal when the lid is closed on the body of the container.

The Examiner further cited to Nakamura et al. and stated:

Nakamura '575 discloses a resealable dispenser-container for wet tissues comprising a container, made of a flexible and impervious film sheet, and a tray/collar member, made of a material harder

than said container. The flexible sheet constituting the container body 11 may be a film made of synthetic resins such as polyethylene, polypropylene, polyamide, polyester, and polyvinyl chloride, and the film may be a single layer or a laminated layer. The film may be a laminated layer of the above-mentioned film and an aluminum foil or paper. Therefore, the container body 11 is deformable which will inherently be conformable to the wipes contained therein.

The Examiner concluded:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the container of Armstrong '104 from flexible film material and the collar from more rigid materials as taught by Nakamura '575, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Applicants once again respectfully disagree that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the container of Armstrong from a flexible film material and the collar from more rigid materials as taught by Nakamura et al. and having the hermetic seal configuration as taught by Luburic, as suggested by the Examiner. Specifically, for at least the reasons set forth in the Amendment and Reply dated August 20, 2007, Applicants respectfully submit that, rather than setting forth an articulated reasoning sufficient to support a finding of obviousness, the Examiner has merely made a generic statement that the combination would be obvious and has failed to address the arguments set forth by Applicants (e.g., that Armstrong teaches away from the combination suggested by the Examiner because such a combination would leave Armstrong unsuitable for its intended purpose of achieving a desired stacking function). This is the same type of conclusory reasoning that the Supreme Court has recently cautioned against. See KSR Int'l v. Teleflex, 127 S.Ct. 1727, 1738 (2007) ("rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.") (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Despite their traversal, Applicants have chosen to amend independent Claims 1, 24, 30, 31, 32 and 35 in an effort to further advance the prosecution of the present Application. As amended, independent Claims 1, 24, 30, 31, 32 and 35 recite subject matter relating to the structure of the collar and the positioning of the flexible film material relative to the collar. This subject matter is shown in Figures 2 and 4 of the present Application and is not disclosed, taught or suggested by Armstrong, Luburic, Nakamura et al. and/or Ishikawa et al. alone or in any proper combination.

Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 1, 24, 30, 31, 32 and 35 under 35 U.S.C. § 103(a) since at least one element of such claims is not disclosed, taught or suggested by the combination of Armstrong, Luburic, Nakamura et al. and/or Ishikawa et al. Claims 2-23, 25-29, 33, 34 and 36-41 depend variously from Claims 1, 24, 30, 31, 32 and 35 and are allowable therewith, for at least the reasons set forth above, without regard to further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 1-41 is respectfully requested.

* * *

Applicants respectfully submit that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

The Examiner is encouraged to contact the undersigned by telephone if the Examiner believes that another telephone interview would advance the prosecution of the present Application. Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 01/22/2008

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